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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,552	06/13/2005	Klaus Grohe	D4700-00396	5070

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EXAMINER

MAHONE, KRISTIE ANNETTE

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/538,552

Applicant(s)

GROHE, KLAUS

Examiner

Kristie A. Mahone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/27/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings do not show the additional shower fixture being supplied with water independently of the shower head as recited in Claim 2. The specific arrangement of several additional shower fixtures having a common water supply conduit (CIm 9) is not shown. An additional shown fixture attached to the arm via a quick—connect coupler (CIm11) is not shown. A pivot axis that is horizontal and orthogonal to a longitudinal axis of the arm (CIm12) is not illustrated. Nor is the “linkage” on the mounting fixture (CIm 12). The water conduit (CIm 13) is also not shown.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 3 (page 5, line 9), 4(page 5, line 12), 13 (page 6, line 6), 12 (page 6, line 7).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of

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any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2, 12-13 and 16-17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Regarding claim 2, the phrase "can be" renders the claim indefinite because it is unclear whether the limitation(s) (additional shower fixture supplied with water independently) following the phrase are part of the claimed invention. See MPEP § 2173.05(d)

7. Regarding claims 12-13, the term "a linkage" renders the claim(s) indefinite because it is uncertain as to which portion of the mounting fixture the claim refers.

8. Claims 2 (lines 2-3), and 16-17 (line 2) recite the limitation "the shower head" in There is insufficient antecedent basis for this limitation in the claim; i.e. Claim 1 claims "additional shower fixtures," not a shower head.

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9. Claim 13 recites the limitation "the water conduit" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-8, 10, 12-15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Gransow et al. (6,442,775). Gransow discloses a support for a shower comprising: a mounting fixture (1); an arm (2); a receptacle (22) for a shower head (e.g. 4a) arranged in the vicinity of the far end of the arm; and at least one additional shower fixture (4b) attached to the arm. Note that Gransow's support is "adjustable" because it pivots about axis 10 (Fig. 2).

Regarding Claim 2, applying the art as best understood, Gransow's additional shower fixture (4b) can be supplied with water "independently" of the shower head (4a); i.e. 4b does not rely on 4a for its supply of water.

Regarding Claims 3-4, Gransow's arm (2) is a length of hollow profiled stock; i.e. 2 is a tube (Col 1. at 60-61). Gransow's support has a "channel" (interior of 2) passing through the arm leading to the additional shower fixture (4b).

Regarding Claims 5-8 and 10, as shown in Figure 2, Gransow's additional shower fixture (4b) is arranged between the mount (1) and the far end of the arm. The

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jet exiting such additional shower fixture is adjustable; i.e. 4b pivots about axis 400 and the arm pivots about axis 10. The additional shower fixture is mounted on a side of the arm 2 (i.e. at slots 22) so as to be on the underside of the arm (See also Fig. 1).

Furthermore, Gransow's additional shower fixtures appears to be non-detachable in normal use.

With respect to Claims 12-13, it is noted that the art is applied as best understood considering the aforementioned 35 U.S.C. 112 defects. Gransow's arm (2) is pivotable about a horizontal axis, orthogonal to the longitudinal axis of the arm (axis 10) on a "linkage" (20a-20b) on the mounting fixture. (See Fig. 2). Referring to Col 4, lines 6-26, a "water conduit" (110) passes through the linkage.

Regarding Claims 14-15, Gransow's arm is configured in the form of a fork; i.e. it has a split. (Fig. 2). Further, the additional shower fixture (4b) is arranged on an "outer face" of the tine of the fork. Looking at the arm from the location designated as 10 in Figure 2, the surface where 4b engages with arm (2) is deemed an "outer face" because such surface is the second face of the arm that the eye contacts.

Regarding Claim 17, Gransow's shower head (4a) is supplied with water via a hose (interior of 2a). (See Col. 5, lines 1-3).

12. Claims 11 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Mueller et al. (WO 00/39410). Mueller discloses a support for a shower comprising a mounting fixture (26); an arm (20); a receptacle for a shower head arranged in the vicinity of the far end of the arm (80); and at least one additional shower fixture (Muller 28, or 14 carrying 16) attached to the arm. (Figs. 1-2). Mueller's support is "adjustable"

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via threaded connection 76. With respect to claim 11, at least one additional shower fixture (14 carrying 16) is attached to the arm by means of a quick-connect coupler (12). Regarding claim 16, since showerhead 16 is attached by a quick-connect coupler, it is also "detachable".

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 9 is rejected under 35 U.S.C. 103(a) as being obvious over Gransow et al. (as discussed *supra*). Even though Gransow et al. does not specifically include several additional shower fixtures, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to incorporate several additional shower fixtures to enhance the device's suitability for its intended use; (i.e. a divergent array of jet sprays), especially since Applicant has not disclosed that more than one additional shower fixture provides any further advantage, is used for a particular purpose, or solves a stated problem.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Yates (4,752,975); Yurek et al.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie A. Mahone whose telephone number is (571) 272-3680. The examiner can normally be reached on Monday -Friday 8:30A.M-5 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 9571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kristie A. Mahone
Examiner
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A handwritten signature in black ink, appearing to read 'Khoa D. Huynh', with a horizontal line drawn underneath the signature.

**KHOA D. HUYNH
PRIMARY EXAMINER
TECHNOLOGY CENTER 3700**